HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETTION NO.22428 OF 2005

ORDER:

This writ petition is filed for a writ of mandamus to declare the action of respondents in not initiating the action on the complaint made by the petitioners to provide police protection to the petitioners, their family members and the land situated in various survey numbers of China Ramanayyapeta village, Devipatnam mandal, East Godavari district as illegal and arbitrary and in violation of Article 21 of the Constitution of India and for a consequential direction to respondents to initiate action on the complaints dated 17.6.2005, 18.6.2005, 28.7.2005 and 7.8.2005 and provide police protection to the petitioners' family and their properties.

In the affidavit filed in support of the writ petition, it is averred by the petitioners that they are in possession and enjoyment of lands to an extent of 53.90 ½ hectares in various survey numbers mentioned in para-2 of the affidavit. Petitioners traced their title and further submitted that they approached the competent authority for grant of Rytwari patta; that the Settlement Officer, Rajahmundry dismissed their claim for a ryotwari patta and appeals filed by them before Director of Settlement, Hyderabad were allowed on 21.11.1981 and pattas were directed to be granted in favour of the petitioners and that the said order had become final. Thereafter, after the commencement of Andhra Pradesh Scheduled Area Land Transfer Regulations (Regulation 1 of 1959) as amended by Regulation 1 of 1970 (for short "the Regulations"}, proceedings were initiated by the Special Deputy Tahsildar, Devipatnam by filing complaint in L.T.R.P.No.183/76 under

Section 3 of the Regulations, and that after a thorough enquiry, on 31.8.1978 the said proceedings were dropped. It is also stated that the complaints filed by some tribals were dismissed on 20.9.1989 and the said orders have become final as no appeals were filed. In para-7 of the affidavit, the petitioners stated that on 17.6.2005 some members of Rytu Coolie Sangam, by name A.Veera Raju, Madakam Chinnabbai, Solla Laxmi, and Bonda Ammaji came with deadly weapons and threatened that if the petitioners enter into the lands for cultivation, they will be killed and when the petitioners protested, the said persons attacked them with knives and deadly weapons. It is further stated that the petitioners filed complaint before the Station House Officer, Devipatnam – respondent No.4 and a crime was registered on 17.6.2005. When the said persons sought to attack the petitioners again on 18.6.2005, petitioner No.7 filed a complaint before respondent No.4 on which FIR was registered as Crime No.25 of 2005. Though the petitioners made representations to respondent No.5 on 28.7.2005 to take appropriate action, so far no action has been taken. It is further alleged that on 7.8.2005 when the petitioners were cultivating the land, the above named persons alongwith 30 others came to their land and stopped the Tractor. They also threatened the petitioners to kill them. Petitioner No.3 made a complaint on 7.8.2005 to respondent No.4 and that the respondents have shown indifferent attitude. With these averments the petitioners sought for the relief which is already mentioned supra.

Sri K.Satyanarayana Murthy, Mandal Revenue Officer – respondent No.5 filed a counter affidavit in which it is admitted that petitioners made a police complaint against members of Rytu Coolie Sangham as mentioned in the affidavit. He however stated that the petitioners never approached him by

way of any representation. He pointed out that the petitioners have not sought for any relief against him.

No counter affidavit has been filed on behalf of other respondents.

Heard Sri B.Bhaskar Rao, learned counsel for the petitioners. No one appeared for the respondents.

Learned counsel for the petitioners submitted that it is the duty of the State to protect the petitioners' right to life and their property which is guaranteed under Article 21 of the Constitution of India. He stated that though crimes were registered, no action is taken so far by the police to protect the petitioners' life, liberty and their property.

When the writ petition was earlier heard on 22.8.2007, it was pointed out to the learned counsel for the petitioners that though the petitioners named the persons who were interfering with their possession and threatening to deprive their life and personal liberty, they were not made parties. The learned counsel for the petitioners requested and this Court granted two weeks time to enable the petitioners to implead the persons named in the affidavit. Since then the petitioners have not taken any steps to implead the said persons.

Be that as it may, I have not felt impressed by the contentions advanced by the learned counsel for the petitioners. Article 21 of the Constitution of India places an embargo on the State to deny its citizens of life and personal liberty without following due process of law. This Article, in my considered opinion, cannot be stretched to such an extent that the State should be made responsible for protecting life, liberty and property of citizens involved in private disputes. If a citizen is threatened by deprival of his right to property or his personal liberty by private individuals, common law

remedies are available to him under the Code of Criminal Procedure 1975 and also under various municipal laws under which adequate remedies are provided.

As could be seen from the affidavit filed in support of the writ petition, the main grievance of the petitioners is that the police having registered the case failed to take further action.

In **……..vs. Union of India (2007 (6) SCC 171)** the Supreme Court reiterated the settled legal position that if the police on a complaint made by a citizen do not act remedies are available to him to approach the competent criminal Court by way of a private complaint. The petitioners have not taken recourse to this remedy which is available under the procedure of Code of Criminal Procedure 1975. Similarly, if the persons named in the affidavit were interfering with the petitioners' lawful possession of the property it is always open to them to avail the common law remedy of filing civil suit and seek necessary relief against the violators of law. The petitioners have not chosen to avail these remedies. Apart from this, despite giving ample opportunity to the petitioners, they failed to implead the persons who have been allegedly interfering with their civil rights apart from seeking to deny their life, liberty and livelihood. Without impleading the persons against whom allegations have been made, it is not possible for this Court to grant any relief to the petitioners in this writ petition.

For the aforementioned reason, this writ petition is wholly misconceived and is accordingly, dismissed.

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C.V.NAGARJUNA REDDY, J

Dt: 27.9.2007.

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